

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

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KEVIN TUBBS, JOSEPH DIBEE,
JOSEPHINE S. OVERAKER, JUSTIN
SOLONDZ, and BRIANA WATERS.

Defendants.

Case No. CR05-5828FDB

ORDER EXCLUDING DEFENSE
EXPERT WEDICK ON
INSUFFICIENT OFFER OF PROOF

The Government had moved to exclude the testimony of Defendant's Proposed Expert James Wedick (retired FBI Special Agent), and the motion was addressed at the Pretrial Conference. Defendant Waters asked for the opportunity to submit an offer of proof in response to the Court's concerns about the testimony.

Defendant Waters has now presented an offer of proof concerning the testimony of James Wedick, whose testimony would relate to the quality of particular aspects of the investigative work in this case. Defendant asserts that this testimony would assist the jurors who have no knowledge as to FBI regulations, rules, or procedures.

Defendant Waters' Offer of Proof fails to address the Court's concerns or to meet the requirements of FRE 702. For example, the proffer does not demonstrate the issue or issues that

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1 Wedick would address; what FBI rules, regulations, or procedures he relies on; or what opinion he
2 has as a result of applying the subject rules, regulations, or procedures to the facts. All the proffer
3 communicates are the general conclusions that "the agents in this case failed to follow standard and
4 clearly established FBI procedures, that their actions violated FBI regulations, and that their work
5 was sloppy and careless." Because of this lack of specificity, the offer of proof is insufficient and the
6 Court will preclude James Wedick's testimony at this time.

7 NOW, THEREFORE, IT IS ORDERED: Government's Motion in Limine to Exclude
8 Proposed Defense Expert James Wedick is GRANTED.

9 DATED this 6th day of February, 2008.

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11 FRANKLIN D. BURGESS
12 UNITED STATES DISTRICT JUDGE
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